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In re Application of	:	
MOERTERS et al	:	
Application No.: 10/530,491	:	DECISION ON
PCT No.: PCT/EP03/14322	:	
Int. Filing Date: 16 December 2003	:	PETITION
Priority Date: 17 December 2002	:	
Attorney's Docket No.: 268419US0XPCT	:	UNDER 37 CFR 1.181
For: PYROGENIC SILICON DIOXIDE AND	:	
A DISPERSION THEREOF	:	

This decision is in response to the "RESPONSE TO NOTICE OF MISSING REQUIREMENTS UNDER 35 USC 371, REQUEST FOR CORRECTED NOTICE OF ACCEPTANCE, RENEWED REQUEST FOR CORRECTED NOTICE OF ACCEPTANCE, AND REQUEST TO CORRECT FILING DATE," filed on 13 April 2007, 13 November 2007, 04 March 2008 and 24 September 2009 respectively, which are being treated as petitions under 37 CFR 1.181 requesting that the 371(c)(1), (c)(2), and (c)(4) date of the above application be corrected to 06 April 2006.

BACKGROUND

On 06 April 2005, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia, the requisite basic national fee as required by 35 U.S.C. 371(c)(1), and an executed declaration. The filing also indicated that a copy of the international application as filed (35 U.S.C. 371 (c)(2)) has been communicated by the International Bureau.

On 06 March 2007, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that a "translation of the application into English. Note a processing fee will be required if submitted later than 30 months from the priority date" must be submitted within two months from date of mailing or by 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application.

On 13 April 2007, applicants filed a "RESPONSE TO NOTICE OF MISSING REQUIREMENTS UNDER 35 USC 371" accompanied with a copy of the published international application and stating that the international application was filed in English.

On 30 October 2007, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.495 (Form PCT/DO/EO/903) which informed applicants that the date of receipt of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements is 4/13/2007 and that the date of completion of all 35 U.S.C. 371 requirements is 4/06/2005.

On 13 November 2007, applicants submitted a "REQUEST FOR CORRECTED NOTICE OF ACCEPTANCE" indicating the Date of Receipt of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements is incorrect and the correct date is April 6, 2005.

On 26 February 2008, the United States Designated/Elected Office (DO/EO/US) mailed another "NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.495 (Form PCT/DO/EO/903) which informed applicants that the date of receipt of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements is 4/13/2007 and that the date of completion of all 35 U.S.C. 371 requirements is 4/06/2005.

On 04 March 2008, applicants submitted a "RENEWED REQUEST FOR CORRECTED NOTICE OF ACCEPTANCE."

On 24 September 2009, applicants filed a "REQUEST TO CORRECT FILING DATE," indicating the correct filing date of the application should be April 6, 2005.

DISCUSSION

35 U.S.C. 371 National stage: Commencement.

- (c) The applicant shall file in the Patent and Trademark Office —
 - (1) the national fee provided in section 41(a) of this title;
 - (2) a copy of the international application, unless not required under subsection (a) of this section or already communicated by the International Bureau, and a translation into the English language of the international application, if it was filed in another language;
 - (3) amendments, if any, to the claims in the international application, made under article 19 of the treaty, unless such amendments have been communicated to the Patent and Trademark Office by the International Bureau, and a translation into the English language if such amendments were made in another language;
 - (4) an oath or declaration of the inventor (or other person authorized under chapter 11 of this title) complying with the requirements of section 115 of this title and with regulations prescribed for oaths or declarations of applicants;

A review of the file indicates that national stage papers were received on 06 April 2005. The USPTO received at such time the basic national fee, an executed declaration, and the transmittal letter indicating that a copy of the international application as filed (35 U.S.C. 371 (c)(2)) has been communicated by the International Bureau.

A review of the published international application shows that it was filed in English. As a result, applicants met item 35 U.S.C. 371(c)(2) on 06 April 2005. Accordingly, this is the date that all of the requirements under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) have been satisfied.

DECISION

The petition under 37 CFR 1.181 is **GRANTED**.

The Notification of Acceptances (Form PCT/DO/EO/903) mailed on 30 October 2007 and 26 February 2008 are **VACATED** with the mailing of this decision.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing under 35 U.S.C. 371. The 35 USC 371(c)(1), (c)(2), and (c)(4) date of this application is **06 April 2005**.



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